

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

<p>MIRIAM HYMAN,</p> <p>Plaintiff,</p> <p>v.</p> <p>CHILD, INC.,</p> <p>Defendant.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>C.A. No. 06-227-SLR</p> <p>JURY TRIAL DEMANDED</p>
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**MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF PLAINTIFF'S ANSWER TO MOTION OF
DEFENDANT, CHILD, INC., FOR SUMMARY JUDGMENT**

Plaintiff hereby responds to Defendant Child, Inc.'s Motion for Summary Judgment and, in support thereof, states the following:

1. Plaintiff, Miriam Hyman, is twenty-six year-old African American female. She was employed part time by Defendant from March 23, 2005 until she was terminated on June 3, 2005.
2. Plaintiff's termination was the result of racial discrimination under 42 U.S.C. §1981 in the application of her employment contract. Defendant also breached the employment contract and failed to practice the Covenant of Good Faith and Fair Dealing.
3. Pursuant to Defendant's "boiler-plate" employment contract, Plaintiff was hired to work part-time, which Defendant's contract defined as "hours not to exceed 25 hours per week." The contract provided for a six-month orientation period during which Plaintiff's performance was to be evaluated. See Exhibit "A".

4. Part-time was further defined by Defendant's "SCHEDULE POLICY – PART TIME" as "Not to Exceed hours of 25 hours per week. This may be increased or decreased based on need, but must never (emphasis added) exceed 35 hours per week." See Exhibit "B".
5. During her employment with Defendant, Plaintiff (excluding her initial week of required training) never worked less than 30 hours per week. In fact, several weeks Plaintiff worked in excess of the prohibited 35 hours per week. See Exhibit "C".
6. During her shift on May 25, 2005, a thirteen-year-old resident of Defendant assaulted Plaintiff. Plaintiff was bitten several times and due to the egregious nature of the assault, Plaintiff approached Defendant about pressing charges against the resident. Defendant unequivocally advised plaintiff that their employees did not pursue criminal charges against residents, and Defendant would not support her actions in this regard.
7. In compliance with Defendant's Schedule Policy requirement stating:

"If a staff member would like to request to not be scheduled certain days or times (for appointments, weddings, church services, classes, etc.) but is still able to work the part-time hours for that week, at least one month's advance notice must be given. Requests should be written in the appropriate format provided by the Scheduling Coordinator. These requests will be taken into strong consideration" (emphasis added)

on May 27, 2005, Plaintiff wrote a letter to her managers, Robbie MacDonna and Nicole Russo. See Exhibit "D". In her letter, Plaintiff attempted to hold Defendant to its contractual obligations with Plaintiff as a part-time employee by requesting a reassessment of her hours. Plaintiff reminded Defendant that she accepted her employment with the understanding that Defendant would be hiring another night employee to share the workload with Plaintiff. An additional employee was never hired and as a result, Plaintiff was repeatedly requested to work in excess of the hours she had been hired in violation of Defendant's policies.

8. Other than her 5/27/05 letter requesting Defendant's compliance with her part-time hours, there was no documentation in Plaintiff's employment file regarding adverse actions or any other issues.
9. Defendant illegally retaliated against plaintiff by terminating her employment in response to:
 - 1) Plaintiff's request to file charges against the white resident who assaulted her despite the fact it supported other Caucasian employees in this regard, and 2) based upon plaintiff's request that her hours be accommodated and reassessed at a level consistent with the terms of her part-time employment.
10. A Court shall grant summary judgment only if "the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56 (c). The moving party bears the burden of proving there is no genuine issue of any material fact. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 n.10 (1986). The court will "view the underlying facts and all reasonable inferences therefrom in the light most favorable to the party opposing the motion." Pa. Coal Ass'n v. Babbitt, 63 F.3d 231, 236 (3d Cir. 1995). With respect to summary judgment in discrimination cases, the court's role is "to determine whether, upon reviewing all the facts and inferences to be drawn therefrom in the light most favorable to the plaintiff, there exists sufficient evidence to create a genuine issue of material fact as to whether the employer intentionally discriminated against the plaintiff." Revis v. Slocomb Indus., 814 F. Supp. 1209, 1215 (D. Del. 1993) (quoting Hankins v. Temple Univ., 829 F.2d 437, 440 (3d Cir. 1987)). A court should not make credibility determinations or weigh the evidence. Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 150 (2000).

11. The United States Supreme Court in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973), set forth a three-step burden shifting analysis for Title VII employment discrimination cases. First, plaintiff must establish a *prima facie* case of discrimination. Id. This is done by showing that the plaintiff: 1) is a member of a protected class; 2) was qualified for the position; 3) suffered an adverse job action; and 4) was treated differently than employees who are not members of the protected class. Whether the plaintiff has established a *prima facie* case of discrimination is a question of law for the court. Sarullo v. United States Postal Service, 352 F.3d 789, 798 (3d Cir. 2003).
12. Once plaintiff establishes a *prima facie* case of discrimination, the burden shifts to the employer to articulate a legitimate, nondiscriminatory reason for the employment decision. McDonnell Douglas, 411 U.S. at 802. If the employer meets its “relatively light” burden by articulating a legitimate reason for the employment decision, the burden shifts back to the plaintiff to show that the nondiscriminatory reason proffered by the employer was a mere pretext for racial discrimination. Id.
13. Plaintiff has met the first burden in the McDonnell Douglas three-step analysis by clearly establishing a *prima facie* case of discrimination as follows: 1) Plaintiff, an African-American, is a member of a protected class; 2) Plaintiff was obviously qualified for the position as she was hired by Defendant and passed all required training; 3) Plaintiff suffered an adverse job action when she was discriminatorily discharged resulting in lost wages; and 4) Plaintiff was treated differently than Caucasian employees.
14. The burden now shifts to Defendant to articulate a legitimate, nondiscriminatory reason for firing Plaintiff. McDonnell Douglas, 411 U.S. at 802. The Memorandum of Points and Authorities in Support of Motion of Defendant, Child, Inc., for Summary Judgment purports to articulate this reason. Defendant asserts that Plaintiff “was terminated not because of her

race but because of an accumulation of issues to the point of discharge.” Defendant’s Memorandum at paragraph 7 lists a multitude of alleged actions and inactions by Plaintiff that formed the basis for its “nondiscriminatory reason” to fire her. In reality, the majority of Defendant’s allegations against Plaintiff are contained in an Affidavit of Robbie MacDonna Hoosty dated September 21, 2007. None of the allegations contained in the Hoosty Affidavit are supported by documentation contained in Plaintiff’s employment file. Specifically, there is no documentation to support Hoosty’s allegations that Plaintiff missed mandatory staff meetings, or if she did she was ever disciplined as a result. Likewise, Defendant has not presented any documents to support its allegation that “all offenses, including tardiness, leaving early and absences were documented and recorded.” Ms. Hoosty’s Affidavit contains her recollection and/or others’ recollection of events that occurred well over two years ago without the benefit of any supporting contemporaneous documentation.

15. If the Court finds that Defendant through the Affidavit of Ms. Hoosty met its burden of articulating a legitimate reason for firing Plaintiff, which is denied, then clearly Plaintiff’s well documented evidence proves that the Defendant’s nondiscriminatory reason proffered by the employer was a mere pretext for racial discrimination. The fact that plaintiff’s termination is contemporaneous to her May 25, 2005 assault and her May 27, 2005 letter raises a question of fact as to the discriminatory motivation for Defendants actions. For example, why if plaintiff did in fact miss a “mandatory” staff meeting” on April 28, 2005 was it that no discipline resulted until after plaintiff’s request to modify her part time hours and after her request to press charges against her assailant.
16. The Plaintiff and Defendant voluntarily entered into a binding written contract of employment for Plaintiff to work part-time. The contract and Defendant’s Schedule Policy clearly sets out the maximum of 25 hours per week for part time employees. Plaintiff,

without complaint, worked in excess of her contractual hours of employment until she could no longer juggle her full time day commitments with Defendant's part-time job. In compliance with Defendant's Schedule Policy, Plaintiff wrote a very amicable letter explaining her affinity for her job but her frustration with Defendant's lack of hiring another night employee to share the extra hours she was continually being asked to cover. See Exhibit "D". Plaintiff never received a response to her 5/27/05 letter. In fact the next documentation in Plaintiff's file appears to be her notice of termination dated June 3, 2005. See Exhibit "E".

17. Two days before Plaintiff's friendly letter requesting Defendant to reassess her hours, Plaintiff was viciously assaulted by a resident of Defendant. Plaintiff was bitten on both arms by a thirteen-year-old white resident on May 25, 2005 while Plaintiff was performing her work duties. The incident was so physically and emotionally upsetting, Plaintiff wanted to file charges against the perpetrator. Defendant refused Plaintiff's request as against its policies and stated it would not provide any support to Plaintiff in that regard.
18. Plaintiff was terminated on June 3, 2005. Subsequent to her termination, Plaintiff learned that a Caucasian employee of Defendant was similarly assaulted by a Latino resident. Defendant actively assisted and supported the Caucasian employee's criminal pursuit of the Latino resident. Moreover, the Caucasian employee did not suffer any adverse employment action due to her criminal pursuit.
19. The Third Circuit has stated that '[a] disparate treatment violation is made out when an individual of a protected group is shown to have been singled out and treated less favorably than others similarly situated" on the basis of race. E.E. O.C. v. Metal Serv. Co., 892 F.2d 341, 347 (3d Cir. 1990). The sequence of events from the date of the assault on Plaintiff and her termination, clearly establishes that the nondiscriminatory reason proffered by the

Defendant merely a pretext for racial discrimination. Plaintiff has shown that “others not in the protected class were treated more favorably” further supporting Plaintiff’s position that Defendant’s nondiscriminatory reason was a mere pretext for racial discrimination. Weldon v. Kraft, 896 F.2d 793, 797 (3d Cir. 1990).

20. Based upon the foregoing, clearly Defendant has not and can not meet its burden of proving there is no genuine issue of any material fact. When this Court in reviewing all the facts and inferences to be drawn therefrom in the light most favorable to the Plaintiff, there unequivocally exists sufficient evidence to create a genuine issue of material fact as to whether the employer intentionally discriminated against the plaintiff. Revis v. Slocomb Indus., 814 F. Supp. 1209, 1215 (D. Del. 1993) (quoting Hankins v. Temple Univ., 829 F.2d 437, 440 (3d Cir. 1987)). In the context of Summary Judgment, this Court should not make credibility determinations or weigh the evidence. Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 150 (2000). Therefore, it should neither weigh the allegations contained in Ms. Hootsy’s Affidavit nor should the Court make credibility determinations for Ms. Hootsy’s and/or Plaintiff in deciding this Motion for Summary Judgment.

21. Specifically addressing Plaintiff’s breach of contract and breach of the covenant of good faith and fair dealing, the facts clearly support Plaintiff’s claims. Defendant exhibited a “take, take, take” attitude with Plaintiff. They continually “took” from her as suited their needs, but when she requested action after the assault and compliance with her part time contract, Defendant fired her. Defendants argue that Plaintiff never “chose to complain about the hours or not to work them”. Plaintiff testified that she mentioned her hours regularly. See Exhibit “F”. Defendant cites in its Memorandum the hours worked by Plaintiff pursuant to her timesheets dated between 3/27/05 though 6/5/05. Defendant states that except for three weeks, Plaintiff’s hours were within the Scheduling Policy. Defendant conveniently cites to

the Scheduling Policy when it purportedly suits its position. In truth, the executed employment contract states "hours not to exceed 25 hours per week" and the Scheduling Policy states "Not to Exceed hours of 25 hours per week...but must NEVER exceed 35 hours per week." (emphasis added) See Exhibits "A" and "B". Defendant's own Memorandum admits that Plaintiff never worked less than 31.5 hours. In order to reach its "25-35" calculation, Defendant conveniently includes Plaintiff's first week of training at 12 hours and her week of termination at 8 hours when she only worked one day! Clearly, there was a breach of the express conditions of the contract by Defendant along with a breach of the covenant of good faith and fair dealing. Defendant took advantage of Plaintiff's affable demeanor and when she pushed back, Defendant terminated her based upon her race.

22. When viewed in the light most favorable to the Plaintiff, there exists sufficient evidence to create a genuine issue of material fact as to whether Plaintiff's termination was the result of racial discrimination under 42 U.S.C. §1981; whether Defendant also breached the employment contract; and whether Defendant failed to practice the Covenant of Good Faith and Fair Dealing.

WHEREFORE, Plaintiff respectfully requests this Court to deny Defendant's Motion for Summary Judgment and enter the attached Order.

REILLY, JANICZEK & McDEVIIT



R. Stokes Nolte, Esquire
DE Bar ID: 2301
1010 N. Bancroft Parkway
Suite 21
Wilmington, DE 19805

(302) 777-1700

DATED: October 9, 2007

EXHIBIT A



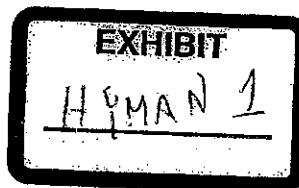
March 22, 2005

Ms. Miriam A. Hyman
628 North 7th Street
Philadelphia, PA 19123

Dear Ms. Hyman:

This is to confirm that you have been appointed to the position of part-time Child/Youth Service Worker at the Governor Charles L. Terry, Jr. Emergency Home for Children and Youth effective March 23, 2005. Ms. Nicole Russo will be your supervisor and Ms. Robin MacDonna is the Director of the Emergency Home.

Your appointment is subject to the following:



This shall be a part-time position. Your salary will be \$10.00 per hour. You will be expected to complete time sheets stating the days and hours worked. It is understood that you will work fifteen training hours, two weeks after training is complete and then become on call back-up, to work as required, hours not to exceed 25 hours per week.

CHILD, Inc. pays its employees on the 15th and last day of each month. After three months, you will be eligible for direct deposit of your check into your checking or savings account. The payroll is distributed from 507 Philadelphia Pike, CHILD, Inc.'s central offices.

Ms. Miriam A. Hyman
March 22, 2005

CHILD, Inc.
Page 2 of 2

Since this is a part-time position, you will not be eligible for benefits such as health, dental, life insurance, short/long term disability insurance, sick or vacation leave.

You will be on orientation for a six-month period when your performance will be evaluated.

It is understood that you will complete the CHILD, Inc. Basic Parent Education Program as one criterion for fulfilling orientation. You must contact Ms. Mary Michalski at (302) 762-8989 by April 15, 2005 and provide a copy of your certificate when classes are complete to Human Resources.

You are expected to attend all staff meetings and training sessions as directed by your supervisor.

It is understood that you will complete the Criminal Background check by April 15, 2005, and the Physical Examination by June 1, 2005. Continued employment is contingent on results being complete on or before the above dates.

You will be responsible for receiving, recording, counseling and assigning young people who will be coming into the emergency home. Generally, your job will be to make the youngsters feel at ease and for the maintenance of their physical and emotional well-being.

You may be tested for drugs at any time. Continued employment is contingent on negative results for the drug test.

Ms. Russo and/or Ms. MacDonna will give your assignment and work schedule to you.

You have received a copy of the job description.

CHILD, Inc. is an at-will employer.

To learn more about CHILD, Inc. please visit our website at www.childdinc.com, which is updated as required.

It is understood that either party may terminate this employment arrangement between the employee and the employer after fifteen (15) calendar day's notice, unless the employee is terminated for cause.

Should you have any questions regarding the terms of employment, please bring them to our attention. If you agree to the terms of this letter, please sign where indicated and return the executed copies. A signed copy of the letter will be returned to you.

On behalf of CHILD, Inc. I welcome you aboard.

Sincerely yours,



Joseph M. Dell'Olio
Executive Vice-President

Agreed: Miriam A. Hyman
Miriam A. Hyman

3/22/05
Date

JMD/clf

Enclosures

cc: Connie L. Futty
Human Resources Administration

GTH PT CYSW

EXHIBIT B

Governor Charles L. Terry Jr., Emergency Home For Children and Youth

SCHEDULE POLICY – Part-Time

Title: Part-Time Child/Youth Service Worker

- The Child/Youth Service Worker will be scheduled Not to Exceed hours of 25 hours per week. This may be increased or decreased based on need, but must never exceed 35 hours per week.
- Schedules may vary from week to week.
- New schedules will be posted every two weeks, unless there are staffing issues. The Scheduling Coordinator would then provide updates about scheduling. During these times, please provide (in advance) the Scheduling Coordinator with information concerning your schedule availability.
- When unable to work the part-time work week, it will be necessary for leave of absence requests to be given to the office at least one month in advance, in accordance with CHILD, Inc. policy. The REQUEST FOR OR NOTIFICATION OF ABSENCE FORM must be completed, approved by the Director and submitted to the main office for approval by the Executive Vice President. This form *must* also be completed for training requests.
- If a staff member would like to request to not be scheduled certain days or times (for appointments, weddings, church services, classes, etc.), but is still able to work the part-time hours for that week, at least one month's advance notice *must* be given. Requests should be written in the appropriate format provided by the Scheduling Coordinator. These requests will be taken into strong consideration.
- Once the schedule is posted, staff members will be responsible for finding their own coverage, if unable to work the scheduled shift. Each staff member that is involved is to sign a SHIFT CHANGE REQUEST FORM. Then, the scheduling coordinator must approve changes.
- All schedule changes *must* be documented on the SHIFT TIME CHANGE FORM. Approval by the Resident Manager, and/or Director is necessary for ALL changes.
- Tardiness, leaving early and absences from your shift are *strongly prohibited*. All Offenses are documented and recorded.
- A CHILD, Inc. Weekly Time Sheet must be completed and turned into the Scheduling Coordinator at the end of each week, (every Sunday).
- The Child/Youth Service Worker will maintain a *sign-in/sign-out log*. The hours Should be tallied at the end of each day and at the end of each week. The workweek begins with Monday.
- The Child/Youth Service Worker position is an hourly position.

I have read and received a copy of the above schedule policy. I understand that the Resident Manager and/or the Director will review this policy with me and answer any questions I may have.

Signature:

Child/Youth Service Worker

Date-

3/22/05

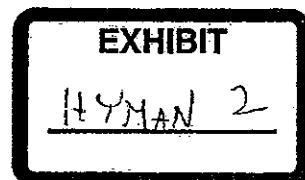


EXHIBIT C

Employee Name: Miriam HymanDepartment: GTB / L00Supervisor: Nicki Russo / Robbie MacDonnaFor ALL Hourly Workers - Including Support/Back-Up Time @ Shelters
For Week Ending: (Sunday's Date) - 6/5 /05

CHILD, Inc. - WEEKLY TIME SHEET

DATE	Day of Week	Morning (AM)		Afternoon (PM)		Additional Hours	Total Hours	FOR NOTES and/or OFFICE USE ONLY
		In	Out	In	Out			
<u>5/30/05</u>	Monday	<u>11pm</u>	<u>7am</u>				<u>9</u>	
	Tuesday							
	Wednesday							
<u>6/1/05</u>	Friday							
<u>6/4/05</u>	Saturday							
<u>6/5/05</u>	Sunday							
	TOTALS:							

NOTE: Time Sheet MUST be completely filled out, hours calculated, signed by employee and completed with Authorization Signature

J. Hyman

Employee Signature

Supervisor Authorization Signature

Director's Signature

Payroll Notes:

Staff Name: Miriam HymanTitle: Child Youth WorkerPT
PT

GTH Weekly Time Sheet

For Week Ending: 6/5/05

Date	Day	Scheduled	Hours Scheduled	In	Out	In	Out	Hours Worked	Leave of Absence Submitted?	Notes (List reasons for being late, absent or any other changes to your schedule)
5/30/05	Mon			11:07pm	7:01					
	Tue									
	Wed									
	Thurs									
	Fri									
6/1/05	Sat									
6/5/05	Sun									
	Totals									

Reviewed by _____

Date _____

Employee Signature _____

Date _____

Notes (Office Use Only):

Staff Name: Miriam Hyman
Title: Child Youth WorkerFT
PT
C

GTH Weekly Time Sheet

For Week Ending: 5/29/05

Date	Day	Scheduled	Hours Scheduled	In	Out	In	Out	Hours Worked	Leave of Absence Submitted?	Notes (List reasons for being late, absent or any other changes to your schedule)
5/23/05	Mon									
5/24/05	Tue									
5/25/05	Wed									
5/26/05	Thurs									
5/27/05	Fri									
	Sat									
	Sun									
	Totals									

5/27/05
Employee Signature
Date

Reviewed by _____

Date

Notes (Office Use Only):

Staff Name: William Hyman
 Title: Child Youth Worker
 FT PT

GTH Weekly Time Sheet

For Week Ending: 5/22/05

Date	Day	Scheduled	Hours Scheduled	In	Out	In	Out	Hours Worked	Leave of Absence Submitted? (List reasons for being late, absent or any other changes to your schedule)	Notes
5/16/05	Mon			8:45 AM	12:00 PM	1:00 PM	7:45 AM	11	Staff meeting	
	Tue									
	Wed									
	Thurs									
5/20/05	Fri			11 AM	10:30 AM			1		
5/21/05	Sat			10:30 AM	9:30 AM			1		
5/22/05	Sun			10:00 AM	7 AM			1		
	Totals							3		

Reviewed by _____

Date _____

Notes (Office Use Only):

Employee Signature _____

Date _____

5/22/05

Staff Name: Miriam Hyman
 Title: Child Youth Worker
 FT PT

GTH Weekly Time Sheet

For Week Ending: 5/15/05

Date	Day	Scheduled	Hours Scheduled	In	Out	In	Out	Hours Worked	Leave of Absence Submitted?	Notes (List reasons for being late, absent or any other changes to your schedule)
	Mon									
<u>5/1/05</u>	Tue	<u>11am to 1pm</u>	<u>10</u>	<u>11am</u>	<u>9pm</u>	<u>9am</u>	<u>12pm</u>	<u>13</u>		
<u>5/12/05</u>	Wed	<u>11am to 1pm</u>	<u>10</u>	<u>10pm</u>	<u>8:10A</u>					
	Thurs									
	Fri									
	Sat									
	Sun									
	Totals									

Miriam Hyman 5/17/05

Reviewed by

Date

Employee Signature

Date

Notes (Office Use Only):

Staff Name: William Hyman
 Title: Child Watch Worker
 FT

GTH Weekly Time Sheet

For Week Ending: 5/18/05

Date	Day	Scheduled	Hours Scheduled	In	Out	In	Out	Hours Worked	Leave of Absence Submitted?	Notes (List reasons for being late, absent or any other changes to your schedule)
5/2/05	Mon		8	11pm	7:45am			8		
5/3/05	Tue			11pm	8:55			10		
5/4/05	Wed			10pm	8am			10		
5/5/05	Thurs			8pm	10am			10		Switched times with since because of family engagement
	Fri									
	Sat									
	Sun									
	Totals							28		

William Hyman 5/17/05

Reviewed by

Date

Employee Signature

Date

Notes (Office Use Only):

Staff Name: Miriam Hyman
 Title: Child Youth Worker FT PT

GTH Weekly Time Sheet

For Week Ending: 5/1/05

Date	Day	Scheduled	Hours Scheduled	In	Out	In	Out	Hours Worked	Leave or Absence Submitted?	Notes (List reasons for being late, absent or any other changes to your schedule)
<u>4/26/05</u>	Mon									
<u>4/27/05</u>	Tue			10 pm	8:30am					
<u>4/27/05</u>	Wed			8 pm	6:15a	9 am	10:45am		Staff meeting	
<u>4/28/05</u>	Thurs			8 pm	6:15a					
	Fri									
	Sat									
	Sun									
	Totals									

Miriam Hyman 5/17/05

Reviewed by

Date

Employee Signature

Date

Notes (Office Use Only):

Employee Name: Miriam Hyman
Dept. GTH Title: Child Youth Worker FTFPT

GTH Weekly Time Sheet

For Week Ending: 4/24/05
Exemptions:

Date	Day	Scheduled Times	Hours Scheduled	In	Out	In	Out	Hours Worked	Leave of Absence Submitted?	Late Form Submitted?	Notes (Office Use Only)
	Mon	7AM to 7PM		1PM	7PM			8			
	Tue	7AM									
	Wed	7AM									
	Thurs	7AM									
	Fri	7AM to 1PM		11AM	10:30a			1.5			
	Sat	10:30AM to 4PM		10:30PM	9:30a			11			
	Sun	10:30AM to 4PM		10PM	7AM			9			
	Totals			29	5			24.5			

Miriam Hyman 4/21/05

Authorization Signatures

Employee Signature

Payroll Notes (Office Use Only):

Total Back Up Time

Employee Name: Minam Hyun
Dept. GTH Title: Child Youth Worker PT

GTH Weekly Time Sheet

For Week Ending: 4/17/05
Exemptions:

Date	Day	Scheduled Times	Hours Scheduled	In	Out	In	Out	Hours Worked	Leave of Absence Submitted?	Late Form Submitted?	Notes (Office Use Only)
4/11/05	Mon	10 AM to 6 PM									
4/12/05	Tue	10 AM to 6 PM	10	9 AM	11:30 PM	10 PM	8 AM	12			
4/13/05	Wed	10 AM to 6 PM	10	10 PM	8 AM			10			Staff meeting
4/14/05	Thurs	10 AM to 6 PM	10								
4/15/05	Fri	10 AM to 6 PM	10	1 AM	12:30 PM	11					Staff meeting
	Sat	10									
	Sun	10									
	Totals										

Patricia Payne 4/15/05

Authorization Signatures

Patricia Payne

Payroll Notes (Office Use Only):

Total Back Up Time

Employee Name: Miriam Hyman
 Dept. GTH Title: Childcare Worker
FT/PT

GTH Weekly Time Sheet

For Week Ending: 4/10/05
 Exemptions: _____

Date	Day	Scheduled Times	Hours Scheduled	In	Out	In	Out	Hours Worked	Leave of Absence Submitted?	Late Form Submitted?	Notes (Office Use Only)
	Mon	to									
	Tue	to									
	Wed	to									
	Thurs	to									
	Fri	11 AM to 1 PM	1 1/2	9 AM	8:30A	11:30					
	Sat	10:30 AM to 12 PM	1 1/2	10:30 AM	9:30A	11					
	Sun	10 AM to 1 PM	1 1/2	10 AM	7A	12					
	Totals		2 1/2					3 1/2			

Miriam Hyman 4/15/05

Authorization Signatures

Employee Signature

Payroll Notes (Office Use Only):

Total Back Up Time

Employee Name: Miriam Hisman
Dept. GTH Title Child Watch Worker FTFPTGTH Weekly Time Sheet
For Week Ending: 4/3/05

Exemptions: _____

Date	Day	Scheduled Times	Hours Scheduled	In	Out	In	Out	Hours Worked	Leave of Absence Submitted?	Late Form Submitted?	Notes (Office Use Only)
3/28/05	Mon	11:45 AM to 12:30 PM	10	11pm	12pm			13			
3/29/05	Tue	10:30 AM to 12:30 PM	10					10			Star Meeting
3/30/05	Wed	10:30 AM to 12:30 PM	10	10pm	8:10AM			10			
3/31/05	Thurs	10:30 AM to 12:30 PM	10	9:30PM	8AM			10			
4/1/05	Fri	10:30 AM to 12:30 PM	10					10			
4/2/05	Sat	10:30 AM to 12:30 PM	10					10			
4/3/05	Sun	10:30 AM to 12:30 PM	10					10			
	Totals		30					33			

Miriam Hisman 4/15/05

Authorization Signatures

Employee Signature

Payroll Notes (Office Use Only):

Total Back Up Time

Employee Name: Miriam Hyman
Dept. GTH Title: Child Youth Worker FT/PT

GTH Weekly Time Sheet:

For Week Ending: 3/27/05
Exemptions:

Date	Day	Scheduled Times	Hours Scheduled	In	Out	In	Out	Hours Worked	Leave of Absence Submitted?	Late Form Submitted?	Notes (Office Use Only)
	Mon	10									
	Tue	10									
	Wed	10									
	Thurs	10 AM - 12 PM	3	9 AM	12:15 PM			3:25			
	Fri	10 AM - 12 PM	3	11 AM	8:10 PM			9			
	Sat	10									
	Sun	10									
	Totals		12					12:25			

Patricia Payne 4/15/05

Authorization Signatures

Employee Signature

Payroll Notes (Office Use Only):

Total Back Up Time

EXHIBIT D

5/27/05

Governor Terry Home

700 C River Road

Wilmington, DE 19809

Attn: Director, Robbie MacDonna and Manager, Nicole Russo

Hello ladies! It is almost production time for me and I wanted to give you both an early update. Prior to being hired at Gov. Terry I was offered a role in Merchant of Venice in Center Valley, PA (about 45 mins to an hour from Phila). One of the main reasons I wanted this job other then assisting troubled youth was because it would allow me to perform full time and teach during the day. At the time of hire I was told that there would be two individuals at night and that I would be doing between 6 to 8 hours a night ex. 12am-6am or 11pm-7am. I am hoping that that will soon happen because when told that I realized that I could really make these productions work. Let me get right to it. I would need to be scheduled similar to the hours above for about roughly from July 1 - Aug. 6. The production runs from June 28th - Aug. 7th. We will rehearse beginning at 9:30 am in Center Valley and I would be living there during this time. So on certain days I would need to leave in the morning no later than 7am or arrive no earlier than @ 12am. It sounds confusing but I hoping this can work out because I really like this job.

On the nights of July 1, 2, 5, 6, 7, and the 11th I can come in regular time 10pm-11pm whether the full time position had been filled or not, but I would need to leave no later than 7am.

Tech rehearsal:

On the nights of I can't come in at all July 15, 16, 17, and 19 I am in tech rehearsal from 11am-11pm

Performance days and some crazy rehearsals:

On the nights of July 3, 20, 21, 29, 30, 31, and August 2, 3, 4 I would need to come in @12am and I could leave at regular time between 7am-9am on the following morning and then no later then 10:30 am on sat and sun, which I have been doing anyway. Also I believe there are two staff meetings somewhere in here that I would be unable to attend due to rehearsal. After those dates I am free again.

I realize this is a lot and I have two suggestions because I don't wish to leave you hanging:

1: Day shift can be 2pm-12am instead of 1pm-11pm just for that time period (Adrienne came up with this one)

2: A second night staff could just be added like discussed and I would come in after they came on and assist and then leave before they did.

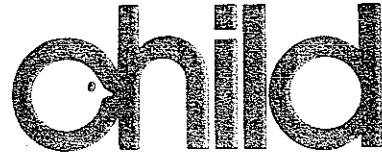
3: My hours could be reduced to about 20 hrs because of all the travel until I am finished with this show.

Whew! Please let me know what you think. I eagerly await your response. Thanks

EXHIBIT

HYMAN 5

EXHIBIT E



CHILD, INC.
507 PHILADELPHIA PIKE
WILMINGTON DELAWARE
19809-2177
TELEPHONE (302) 762-8989
FAX: (302) 762-8983

June 3, 2005

Ms. Miriam A. Hyman
1825 S 23rd Street
Sigel Side Entrance
Philadelphia, PA 19145

Dear Ms. Hyman:

This is to confirm that you have been discharged from the employment of CHILD, Inc. effective immediately.

Consistent with your letter of appointment dated March 22, 2005 this will serve as your fifteen days notice and are being renumerated accordingly.

The enclosed check, number 5489, represents the period from 5/16/05 through 6/17/05. This includes time worked, 80.5 hours, plus notice.

We wish you success as you pursue your career goals.

Sincerely yours,

A handwritten signature in black ink that reads "Joseph M. Dell'Olio".

Joseph M. Dell'Olio
Executive Vice President

JMD/clf

cc: Connie L. Futty
Human Resources Administrator

EXHIBIT F

Miriam Hyman

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1 A. Yes..

2 Q. And there were times when you did work between
3 25 and 35 hours per week?

4 A. Several times, yes..

5 Q. And on those occasions, did you make any
6 complaints to Child Inc. about working between 25 and 35
7 hours per week?

8 A. I spoke with them a few times actually about
9 working over the amount of hours that we discussed.

10 Q. Who did you have these discussions with and
11 when?

12 A. It would vary. As I stated before, sometimes,
13 you know, Ms. Pat was available, sometimes Nicki was
14 available, sometimes Robbie was available. And based on
15 once I received what my hours would be for that week, I
16 would take a mental note and then, you know, communicate
17 to whoever was available this is past a certain amount of
18 hours. But they assured me that they were working
19 towards hiring and they were, in fact, interviewing other
20 individuals but that they just needed that help for right
21 now. So I agreed to help during that time.

22 Q. For any of the weeks -- and I think you have
23 actually supplied some time sheets?

24 A. Yes..

Miriam Hyman

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1 Q. And they showed different amounts of hours
2 worked for different weeks. Some less than 20?

3 A. Yes.

4 Q. Some between 20 and 25, some between 25 and
5 35, and a few over 35, I believe?

6 A. Yes.

7 Q. When you worked those hours, did you work them
8 voluntarily?

9 A. Well, for the first few weeks, I worked under
10 15 hours, only for about two to three weeks.

11 Q. Why was that?

12 A. That was during like the training period.

13 Q. Okay.

14 A. After that, I never worked under 30 hours, and
15 then it would exceed to about I think 42.5 one time was
16 the most that I worked. Again, I agreed to work those
17 hours during that time because I was not in production at
18 that time. And I stated, I would constantly, you know,
19 ask when there was going to be another individual brought
20 on. They were still in the process of hiring, but that I
21 agreed to work those hours just for a short period of
22 time. That was not supposed to be a long time period
23 when I was working those amount of hours every week.

24 Q. You received a paystub for the hours that you